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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,992	07/10/2002	Jonathan Sharp	042933/302069	3264
826 7590 06/19/2008 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER PHUONG, DAI	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 06/19/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/089,992

Applicant(s)

SHARP, JONATHAN

Examiner

DAI A. PHUONG

Art Unit

2617

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03/10/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 14-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 14-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Response to Amendment

1. Applicant's arguments filed 03/10/2008 have been fully considered but they are not persuasive. Claims 1-12 and 14-21 are currently pending.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2-12, 14 and 16-21 recite the limitation "A device" in line 1. There is insufficient antecedent basis for this limitation in the claim. It should be corrected as --The device--.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-7, 9-12 and 14-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumagai et al. (U.S. 6731959) in view of Inoue et al. (U.S. 6332024).

Regarding claim 1, Kumagai et al. disclose a device, comprising:

a body (fig. 5, col. 3, line 61 to col. 4, line 59);

a cover having a closed position for at least partially covering the body and an open position (fig. 5, col. 3, line 61 to col. 4, line 59); and

keys accessible 30, 31, 32a and 32b when the cover in closed position, one of the said keys being in a position remote from all other keys 32a and/or 32b (fig. 5, col. 3, line 61 to col. 4, line 59);

wherein the function of the key is dependent upon the state of the device, and for at least one state of the device, operation of the key controls the provision of information on the display (fig. 5, col. 3, line 61 to col. 4, line 59);

wherein the key is arranged to be active when the cover is in the closed position and inactive when the cover is in the open position, and wherein the key is located on the cover (fig. 5, col. 3, line 61 to col. 4, line 59).

However, Kumagai et al. do not disclose one of keys being multifunctional.

In the same field of endeavor, Inoue et al. disclose one of keys being multifunctional 3 (fig. 1, col. 5, lines 1-42 and col. 8, lines 33-40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the portable terminal of Kumagai et al. by specifically including one of keys being multifunctional, as taught by Inoue et al., the motivation being in order to provide user-friendly, save space and minimum entry keys and significantly improve the usability.

Regarding claim 2, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device further comprising a the display having a portion which is visible when the cover is in the closed position, and the key is operable

to controls the provision of information on the portion of the display visible when the cover is in the closed position (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 3, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device which comprises a receiver (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 4, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device wherein, when the device is in a state corresponding to the receipt of a message, the key is operable to controls the provision of information corresponding to the message (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 5, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device wherein, when the device is in a state corresponding to the receipt of a missed call, the key is operable to controls the provision of information corresponding to the missed call (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 6, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device which comprises a transmitter (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 7, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device wherein, when the device is in an idle state, the key is operable to controls the provision of information corresponding to the last number dialed (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 9, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device wherein operation of the key is a single actuation (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 10, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device further comprising a hinge switch for detecting when the cover makes a specific acute angle with the body (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 11, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 10. Further, Kumagai et al. disclose a device further comprising a processor for detecting, via the hinge switch, when the cover is in the open position and when the cover is in the closed position (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 12, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 11. Further, Kumagai et al. disclose a device wherein the processor is arranged to disable the multifunctional key when the cover is in the open position (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 13, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose a device wherein the multifunctional key is located on the cover (fig. 5, col. 3, line 61 to col. 4, line 59).

Regarding claim 14, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. Further, Kumagai et al. disclose wherein the key is the only key disposed on a first surface of the cover (fig. 5, col. 3, lines 61 to col. 4, line 59). Furthermore, Inoue et al. disclose wherein the multifunctional key (fig. 1, col. 5, lines 1-42 and col. 8, lines 33-40).

Regarding claim 15, Kumagai et al. disclose a device comprising:

a body (fig. 5, col. 3, line 61 to col. 4, line 59);

a cover having a closed position for at least partially covering the body and an open position (fig. 5, col. 3, line 61 to col. 4, line 59); and

keys accessible when the cover is in the closed position, one of said keys being the only key disposed on a first surface of the cover (fig. 5, col. 3, lines 61 to col. 4, line 59),

wherein: the function of the key is dependent upon the state of the device, and for at least one state of the device, operation of key controls the provision of information on the display, wherein the key is arranged to be active when the cover is in the closed position and inactive when the cover is in the open position (fig. 5, col. 3, lines 61 to col. 4, line 59).

However, Kumagai et al. do not disclose one of keys being multifunctional.

In the same field of endeavor, Inoue et al. disclose one of keys being multifunctional 3 (fig. 1, col. 5, lines 1-42 and col. 8, lines 33-40).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the portable terminal of Kumagai et al. by specifically including one of keys being multifunctional, as taught by Inoue et al., the motivation being in order to provide user-friendly, save space and minimum entry keys and significantly improve the usability.

Regarding claim 16, this claim is rejected for the same reason as set forth in claim 2.

Regarding claim 17, this claim is rejected for the same reason as set forth in claim 4.

Regarding claim 18, this claim is rejected for the same reason as set forth in claim 5.

Regarding claim 19, this claim is rejected for the same reason as set forth in claim 7.

Regarding claim 20, this claim is rejected for the same reason as set forth in claim 8.

Regarding claim 21, this claim is rejected for the same reason as set forth in claim 9.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kumagai et al. (U.S. 6731959) in view of Inoue et al. (U.S. 6332024) and further in view of Kim (U.S. 6519475).

Regarding claim 8, the combination of Kumagai et al. and Inoue et al. disclose all the limitations in claim 1. However, the combination of Kumagai et al. and Inoue et al. do not disclose a device arranged for coupling to a headset, and when the device is in a headset coupled state, key is operable to controls the provision of information corresponding to the last number dialed.

In the same field of endeavor, Kim discloses a device arranged for coupling to a headset, and when the device is in a headset coupled state, the key is operable to controls the provision of information corresponding to the last number dialed (col. 3, lines 48-54).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the portable terminal of the combination of Kumagai et al. and Inoue et al. by specifically including a device arranged for coupling to a headset, and when the device is in a headset coupled state, the key is operable to controls the provision of information corresponding to the last number dialed, as taught by Kim, the motivation being in order to

provide the operational mode of the mobile phone to change from the telephone mode to the idle mode in response to the second mode signal.

Response to Argument

Applicant, on page 6 of the remark, argues that the Kumagai patent does not disclose a key that is remote from all other keys and, in fact teaches to the contrary by having keys that are in pairs on the lid 17. However, the Examiner respectfully disagrees.

Kumagai discloses in Figure. 5 that key 32a or key 32b is remote from the other keys, e.g., keys 30, 31 and 13 (see fig. 4b).

Applicant, on pages 7-9 of the remark, argues that nowhere in the Kumagai patent is the suggestion that the keys are in an active when the cover is in the closed position and inactive when the cover is in open position. However, the Examiner respectfully disagrees.

Kumagai discloses in Figure. 5, Column 4, lines 42-59 that in the case where the telephone set receives a calling signal, the hook switch is externally turned to provide an off-hook condition, so that with the lid kept closed the user can talk over the telephone. On the other hand, in the case where the user transmits a calling signal to the other party, the user scrolls the telephone directory with the telephone directory retrieving keys to obtain the telephone number of the aimed party, and he depresses the transmitting button to transmit a calling signal to that party. In other word, the cover 17 of the telephone set is in the closed position (one of the state of the mobile), the user is able to use the telephone directory key 32a and/or 32b to retrieve party's phone numbers by scrolling up and/or down. Therefore, the key 32a and/or 32b is

arrange to be active when the cover 17 is in the closed position and inactive when the cover 17 is in the open position.

Applicant, on page 9 of the remark, argues that neither Kumagai nor Inoue, alone or in combination teach or suggest a button or key located remotely from the other buttons or keys nor do they teach or suggest a multifunctional key being the only key disposed on a first surface of a cover. Independent Claim 1 of the present application recites the multifunctional key being "in a position remote from all other keys. Independent Claim 15 of the present application recites the multifunctional key being "the only key disposed on a first surface of the cover". However, the Examiner respectfully disagrees.

Kumagai discloses in Figure. 5 that key 32a or key 32b is on the surface of lid 17 and remote from the other keys, e.g., keys 30, 31 and 13 (see fig. 4b). The key 32a and/or 32b is operated scrolling up and down respectively to retrieve party's phone numbers. On the other hand, Inoue discloses in Figure. 1, Column 5, lines 1 to 55 that a portable terminal comprises a multifunctional key (3) located below the LCD display screen (2) with which can be rotated and/or scrolled up and down. For that reason, the examiner contends that Kumagai and Inoue teach or suggest the limitation above, and Kumagai is properly combined with Inoue.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dai A Phuong whose telephone number is 571-272-7896. The examiner can normally be reached on Monday to Friday, 9:00 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nguyen M Duc can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-7503.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Dai A Phuong/
Examiner, Art Unit 2617
Date: 06/10/08

/Duc Nguyen/

Supervisory Patent Examiner, Art Unit 2617